

AMENDED IN SENATE SEPTEMBER 8, 2003

AMENDED IN SENATE SEPTEMBER 2, 2003

AMENDED IN ASSEMBLY APRIL 30, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1087**

**Introduced by Assembly Member Frommer**

February 20, 2003

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An act to amend Section 1246 of the Business and Professions Code, relating to venipuncture, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1087, as amended, Frommer. Venipuncture.

Existing law provides that an unlicensed person employed by a licensed clinical laboratory may perform venipuncture or skin puncture for specified purposes upon specific authorization from a licensed physician and surgeon if he or she meets specified requirements, including any required certification.

This bill would provide, in addition, that a person who has obtained certification as a “certified phlebotomy technician” may perform venipuncture or skin puncture to obtain a specimen for nondiagnostic tests, *for insurance purposes*, with general supervision, as defined. *The bill would require that records documenting the procedure be available to the State Department of Health Services upon request.*

This bill would also incorporate additional changes in Section 1246 of the Business and Professions Code proposed by AB 371 that would become operative only if AB 371 and this bill are both enacted and become effective on or before January 1, 2004, and this bill is enacted last.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1246 of the Business and Professions  
2 Code is amended to read:

3 1246. (a) Except as provided in subdivisions (b) and (c), and  
4 in Section 23158 of the Vehicle Code, an unlicensed person  
5 employed by a licensed clinical laboratory may perform  
6 venipuncture or skin puncture for the purpose of withdrawing  
7 blood or for clinical laboratory test purposes upon specific  
8 authorization from a licensed physician and surgeon provided that  
9 he or she meets both of the following requirements:

10 (1) He or she works under the supervision of a person licensed  
11 under this chapter or of a licensed physician and surgeon or of a  
12 licensed registered nurse. A person licensed under this chapter, a  
13 licensed physician or surgeon, or a registered nurse shall be  
14 physically available to be summoned to the scene of the  
15 venipuncture within five minutes during the performance of those  
16 procedures.

17 (2) He or she has been trained by a licensed physician and  
18 surgeon or by a clinical laboratory bioanalyst in the proper  
19 procedure to be employed when withdrawing blood in accordance  
20 with training requirements established by the State Department of  
21 Health Services and has a statement signed by the instructing  
22 physician and surgeon or by the instructing clinical laboratory  
23 bioanalyst that such training has been successfully completed.

24 (b) (1) On and after the effective date of the regulations  
25 specified in paragraph (2), any unlicensed person employed by a  
26 clinical laboratory performing the duties described in this section  
27 shall possess a valid and current certification as a “certified  
28 phlebotomy technician” issued by the department. However, an



1 unlicensed person employed by a clinical laboratory to perform  
2 these duties pursuant to subdivision (a) on that date shall comply  
3 with this requirement by April 2006, which is three years from the  
4 effective date of those regulations.

5 (2) The department shall adopt regulations for certification by  
6 January 1, 2001, as a “certified phlebotomy technician” that shall  
7 include all of the following:

8 (A) The applicant shall hold a valid, current certification as a  
9 phlebotomist issued by a national accreditation agency approved  
10 by the department, and shall submit proof of that certification  
11 when applying for certification pursuant to this section.

12 (B) The applicant shall complete education, training, and  
13 experience requirements as specified by regulations that shall  
14 include, but not be limited to, the following:

15 (i) At least 40 hours of didactic instruction.

16 (ii) At least 40 hours of practical instruction.

17 (iii) At least 50 successful venipunctures.

18 However, an applicant who has been performing these duties  
19 pursuant to subdivision (a) may be exempted from the  
20 requirements specified in clauses (ii) and (iii), and from 20 hours  
21 of the 40 hours of didactic instruction as specified in clause (i), if  
22 he or she has at least 1,040 hours of work experience, as specified  
23 in regulations adopted by the department.

24 It is the intent of the Legislature to permit persons performing  
25 these duties pursuant to subdivision (a) to use educational leave  
26 provided by their employers for purposes of meeting the  
27 requirements of this section.

28 (3) Each “certified phlebotomy technician” shall complete at  
29 least three hours per year or six hours every two years of  
30 continuing education or training. The department shall consider a  
31 variety of programs in determining the programs that meet the  
32 continuing education or training requirement.

33 (4) He or she has been found to be competent in phlebotomy by  
34 a licensed physician and surgeon or person licensed pursuant to  
35 this chapter.

36 (5) He or she works under the supervision of a licensed  
37 physician and surgeon, licensed registered nurse, or person  
38 licensed under this chapter, or the designee of a licensed physician  
39 and surgeon or the designee of a person licensed under this chapter.

(6) The department shall adopt regulations establishing standards for approving training programs designed to prepare applicants for certification pursuant to this section. The standards shall ensure that these programs meet the state's minimum education and training requirements for comparable programs.

(7) The department shall adopt regulations establishing standards for approving national accreditation agencies to administer certification examinations and tests pursuant to this section.

(8) The department shall charge fees for application for and renewal of the certificate authorized by this section of no more than twenty-five dollars (\$25).

(c) (1) A "certified phlebotomy technician" may perform venipuncture or skin puncture to obtain a specimen for nondiagnostic tests assessing the health of an individual, *for insurance purposes*, provided that the technician works under the general supervision of a physician and surgeon licensed under Chapter 5 (commencing with Section 2000). The physician and surgeon may delegate the general supervision duties to a registered nurse or a person licensed under this chapter, but shall remain responsible for ensuring that all those duties and responsibilities are properly performed. *The physician and surgeon shall make available to the department, upon request, records maintained documenting when a certified phlebotomy technician has performed venipuncture or skin puncture pursuant to this subdivision.*

(2) As used in this subdivision, general supervision requires the supervisor of the technician to determine that the technician is competent to perform venipuncture or skin puncture prior to the technician's first blood withdrawal, and on an annual basis thereafter. The supervisor is also required to determine, on a monthly basis, that the technician complies with appropriate venipuncture or skin puncture policies and procedures approved by the medical director and required by state regulations. The supervisor, or another designated licensed physician and surgeon, registered nurse, or person licensed under this chapter, shall be available for consultation with the technician, either in person or through telephonic or electronic means, at the time of blood withdrawal.

1 (d) The department may adopt regulations providing for the  
2 issuance of a certificate to an unlicensed person employed by a  
3 clinical laboratory authorizing only the performance of skin  
4 punctures for test purposes.

5 SEC. 1.5. Section 1246 of the Business and Professions Code  
6 is amended to read:

7 1246. (a) Except as provided in subdivisions (b) and (c), and  
8 in Section 23158 of the Vehicle Code, an unlicensed person  
9 employed by a licensed clinical laboratory may perform  
10 venipuncture or skin puncture for the purpose of withdrawing  
11 blood or for clinical laboratory test purposes upon specific  
12 authorization from a licensed physician and surgeon provided that  
13 he or she meets both of the following requirements:

14 (1) He or she works under the supervision of a person licensed  
15 under this chapter or of a licensed physician and surgeon or of a  
16 licensed registered nurse. A person licensed under this chapter, a  
17 licensed physician or surgeon, or a registered nurse shall be  
18 physically available to be summoned to the scene of the  
19 venipuncture within five minutes during the performance of those  
20 procedures.

21 (2) He or she has been trained by a licensed physician and  
22 surgeon or by a clinical laboratory bioanalyst in the proper  
23 procedure to be employed when withdrawing blood in accordance  
24 with training requirements established by the State Department of  
25 Health Services and has a statement signed by the instructing  
26 physician and surgeon or by the instructing clinical laboratory  
27 bioanalyst that such training has been successfully completed.

28 (b) (1) On and after the effective date of the regulations  
29 specified in paragraph (2), any unlicensed person employed by a  
30 clinical laboratory performing the duties described in this section  
31 shall possess a valid and current certification as a “certified  
32 phlebotomy technician” issued by the department. However, an  
33 unlicensed person employed by a clinical laboratory to perform  
34 these duties pursuant to subdivision (a) on that date shall comply  
35 with this requirement by April 2006, which is three years from the  
36 effective date of those regulations.

37 (2) The department shall adopt regulations for certification by  
38 January 1, 2001, as a “certified phlebotomy technician” that shall  
39 include all of the following:

1 (A) The applicant shall hold a valid, current certification as a  
2 phlebotomist issued by a national accreditation agency approved  
3 by the department, and shall submit proof of that certification  
4 when applying for certification pursuant to this section.

5 (B) The applicant shall complete education, training, and  
6 experience requirements as specified by regulations that shall  
7 include, but not be limited to, the following:

8 (i) At least 40 hours of didactic instruction.

9 (ii) At least 40 hours of practical instruction.

10 (iii) At least 50 successful venipunctures.

11 However, an applicant who has been performing these duties  
12 pursuant to subdivision (a) may be exempted from the  
13 requirements specified in clauses (ii) and (iii), and from 20 hours  
14 of the 40 hours of didactic instruction as specified in clause (i), if  
15 he or she has at least 1,040 hours of work experience, as specified  
16 in regulations adopted by the department.

17 It is the intent of the Legislature to permit persons performing  
18 these duties pursuant to subdivision (a) to use educational leave  
19 provided by their employers for purposes of meeting the  
20 requirements of this section.

21 (3) Each “certified phlebotomy technician” shall complete at  
22 least three hours per year or six hours every two years of  
23 continuing education or training. The department shall consider a  
24 variety of programs in determining the programs that meet the  
25 continuing education or training requirement.

26 (4) He or she has been found to be competent in phlebotomy by  
27 a licensed physician and surgeon or person licensed pursuant to  
28 this chapter.

29 (5) He or she works under the supervision of a licensed  
30 physician and surgeon, licensed registered nurse, or person  
31 licensed under this chapter, or the designee of a licensed physician  
32 and surgeon or the designee of a person licensed under this chapter.

33 (6) The department shall adopt regulations establishing  
34 standards for approving training programs designed to prepare  
35 applicants for certification pursuant to this section. The standards  
36 shall ensure that these programs meet the state’s minimum  
37 education and training requirements for comparable programs.

38 (7) The department shall adopt regulations establishing  
39 standards for approving national accreditation agencies to

1 administer certification examinations and tests pursuant to this  
2 section.

3 (8) The department shall charge fees for application for and  
4 renewal of the certificate authorized by this section of no more  
5 than twenty-five dollars (\$25).

6 (c) (1) (A) A “certified phlebotomy technician” may  
7 perform venipuncture or skin puncture to obtain a specimen for  
8 nondiagnostic tests assessing the health of an individual, *for*  
9 *insurance purposes*, provided that the technician works under the  
10 general supervision of a physician and surgeon licensed under  
11 Chapter 5 (commencing with Section 2000). The physician and  
12 surgeon may delegate the general supervision duties to a registered  
13 nurse or a person licensed under this chapter, but shall remain  
14 responsible for ensuring that all those duties and responsibilities  
15 are properly performed. *The physician and surgeon shall make*  
16 *available to the department, upon request, records maintained*  
17 *documenting when a certified phlebotomy technician has*  
18 *performed venipuncture or skin puncture pursuant to this*  
19 *paragraph.*

20 (B) As used in this paragraph, general supervision requires the  
21 supervisor of the technician to determine that the technician is  
22 competent to perform venipuncture or skin puncture prior to the  
23 technician’s first blood withdrawal, and on an annual basis  
24 thereafter. The supervisor is also required to determine, on a  
25 monthly basis, that the technician complies with appropriate  
26 venipuncture or skin puncture policies and procedures approved  
27 by the medical director and required by state regulations. The  
28 supervisor, or another designated licensed physician and surgeon,  
29 registered nurse, or person licensed under this chapter, shall be  
30 available for consultation with the technician, either in person or  
31 through telephonic or electronic means, at the time of blood  
32 withdrawal.

33 (2) (A) Notwithstanding any other provision of law, a person  
34 who has been issued a “certified phlebotomy technician”  
35 certificate pursuant to this section may draw blood *following*  
36 *policies and procedures approved by a physician and surgeon*  
37 *licensed under Chapter 5 (commencing with Section 2000),*  
38 *appropriate to the location where the blood is being drawn and in*  
39 *accordance with state regulations. The blood collection shall be*  
40 *done* at the request and in the presence of a peace officer for



1 forensic purposes in a jail, law enforcement facility, or medical  
2 facility, with general supervision.

3 (B) As used in this paragraph, “general supervision” means  
4 that the supervisor of the technician is licensed under this code as  
5 a physician and surgeon, physician assistant, clinical laboratory  
6 bioanalyst, registered nurse, or clinical laboratory scientist, and  
7 reviews the competency of the technician before the technician  
8 may perform blood withdrawals without direct supervision, and  
9 on an annual basis thereafter. The supervisor is also required to  
10 review the work of the technician at least once a month to ensure  
11 compliance with venipuncture policies, procedures, and  
12 regulations. The supervisor, or another person licensed under this  
13 code as a physician and surgeon, physician assistant, clinical  
14 laboratory bioanalyst, registered nurse, or clinical laboratory  
15 scientist, shall be accessible to the location where the technician  
16 is working to provide onsite, telephone, or electronic consultation,  
17 within 30 minutes when needed.

18 (d) The department may adopt regulations providing for the  
19 issuance of a certificate to an unlicensed person employed by a  
20 clinical laboratory authorizing only the performance of skin  
21 punctures for test purposes.

22 SEC. 2. Section 1.5 of this bill incorporates amendments to  
23 Section 1246 of the Business and Professions Code proposed by  
24 both this bill and AB 371. It shall only become operative if (1) both  
25 bills are enacted and become effective on or before January 1,  
26 2004, and this bill is enacted last.

27 SEC. 3. This act is an urgency statute necessary for the  
28 immediate preservation of the public peace, health, or safety  
29 within the meaning of Article IV of the Constitution and shall go  
30 into immediate effect. The facts constituting the necessity are:

31 In order to promote public safety as soon as possible by revising  
32 the provisions on unlicensed persons performing venipuncture, it  
33 is necessary that this act take effect immediately.

